

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Toratio Deval Williams,)	
)	C/A No. 2:17-1939-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER AND OPINION
Ofc. Brittany Harvill,)	
)	
Defendant.)	
_____)	

Plaintiff Toratio Deval Williams, proceeding pro se, filed the within action on July 21, 2017, alleging that Defendant Ofc. Brittany Harvill violated his civil rights, in violation of 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On August 30, 2017, Plaintiff filed a letter stating that “Due to me being homeless my a[d]dress changed. This is my current address.” ECF No. 9. The Clerk of Court made note of Plaintiff’s new address as indicated on the envelope containing Plaintiff’s letter.

On October 3, 2017, the Magistrate Judge issued an order directing Plaintiff to put his case into proper form by (1) either paying the filing fee or completing an Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240); (2) completing Form USM-285; and (3) preparing an amended complaint. On October 24, 2017, the envelope containing Plaintiff’s copy of the proper form order was returned to the Clerk of Court marked ‘RETURN TO SENDER - UNABLE TO FORWARD.’ ECF No. 14.

On October 25, 2017, the Magistrate Judge issued a Report and Recommendation in which he noted that the court is without means to contact Plaintiff regarding his case. Accordingly, the

Magistrate Judge recommended that the action be dismissed without prejudice, pursuant to Fed. R. Civ. P. 41. The envelope containing Plaintiff's copy of the Report and Recommendation was returned on November 2, 2017, marked "RETURN TO SENDER -INSUFFICIENT ADDRESS - UNABLE TO FORWARD." ECF No. 18.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id.

The court has thoroughly reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff's complaint is dismissed without prejudice pursuant to Fed. R. Civ. P. 41.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

December 14, 2017